BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

WILLIAM RANDALL BIRCHER Claimant	}
VS.)))) Docket No. 201 905
U.S.D. NO. 260 Respondent AND) Docket No. 201,895)))
KANSAS ASSOCIATION OF SCHOOL BOARDS Insurance Carrier	}

ORDER

Respondent appeals from a preliminary Order entered by Administrative Law Judge Nelsonna Potts Barnes on September 20, 1995.

ISSUES

Respondent and its insurance carrier ask the Appeals Board to review the decision by the Administrative Law Judge on the following issues:

- Whether claimant suffered accidental injury;
- (1) (2) Whether claimant's injury arose out of and in the course of his employment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds as follows:

The dispute in this claim relates to medical treatment and temporary total disability benefits awarded for a foot condition which claimant suffered following a work-related back injury. Claimant testified that as a result of the back injury he walked with a limp and developed swelling in his foot. He developed a condition in his foot described by Dr. Mark VinZant as cellulitis with methicillin resistant Staph aureus and described by Dr. Christopher Moeller as dyshidrotic eczema. Both physicians state in reports prepared after examination of claimant that the condition is inherited but may be aggravated by water or chemical exposure. Claimant, whose work includes mopping and vacuuming, testified

IT IS SO OPPEDED

to one occasion when he took his shoe off at work after mopping the floor and thereafter doing the vacuuming in his socks. He denied, however, that his foot was exposed to any chemicals and did not testify that his feet were in water. Under these circumstances, the Appeals Board finds claimant failed to meet his burden of showing that the condition for which he seeks medical treatment and temporary total disability benefits constitutes an injury arising out of and in the course of his employment. Accordingly, the Order of the Administrative Law Judge should be reversed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Nelsonna Potts Barnes dated September 20, 1995 should be, and the same is hereby, reversed.

II IS SO ONDERED.
Dated this day of February 1996.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

c: Joseph Seiwert, Wichita, KS Anton C. Andersen, Kansas City, KS Nelsonna Potts Barnes, Administrative Law Judge Philip S. Harness, Director